Remarks

It appears that the "when" clauses in claims presented on June 19, 2007, were interpreted by the examiner as meaning "only when." The when clauses were intended to specify that at least one of the B or C proteins was one of the *Photorhabdus* sequences when the other was one of the *Xenorhabdus* sequences. As Protein A is a *Xeno*-derived protein, the when clauses were thus intended to exclude possible prior art situations when all three proteins (A, B, and C) were all *Xeno* proteins.

It was not the applicants intent for the B protein to be one of the *Photo* sequences "only when" C was a *Xeno* sequence. Likewise, it was not the applicants intent for the C protein to be one of the *Photo* sequence "only when" B is one of the *Xeno* sequences.

The applicants believe that a fair reading of the prior claims is consistent with the applicants' intent. For example, claim 25 as filed on June 19, 2007, specifies that both the B and C proteins are *Photo* proteins. These were the elected species, and independent claims 21 and 34 were certainly intended to include the elected species / searched sequences.

In any event, in order to further clarify this matter, it is believed that moving the "when" clause as indicated in the above claims should make it more clear that, given that Protein A is a *Xeno*-derived protein as specified, at least one of B and/or C must be a *Photo*-derived protein. (If Protein B is *Xeno*-derived, then Protein C must be *Photo*-derived. Likewise, if Protein C is *Xeno*-derived, Protein B must be *Photo*-derived.)

In either case, both Protein B and Protein C can both be *Photo*-derived proteins as well, when Protein A is a *Xeno*-derived protein, as specified in claims 21 and 34. This is a situation covered by claim 25, for example.

The applicants and the undersigned apologize for any confusion created by a reading of the prior set of claims that was inconsistent with this.

Claims 36 and 37 were also presented. It is understood that the A protein in these claims is *Photo*-derived, and that the elected Protein A sequence was *Xeno*-derived. While the B and C components could cover the B and C sequences elected for search purposes, it is understood that claims 36 and 37 would not cover the elected A sequence. Thus, if these two claims are deemed to be drawn to a non-elected invention, withdrawal of these two claims from consideration would

be understood by the applicants. This could also clarify the record for any future divisional applications.

The Assistant Commissioner is hereby authorized to charge any fees under 37 CFR §§1.16 and 1.17 as required by this paper to Deposit Account 19-0065.

The applicants invite the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

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